THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.26519 OF 2006

DATED 22nd DECEMBER, 2006

Between

Metasun Telecom Private Limited rep.by its Director
Manda Srinivas

... Petitioner

AND

The State of A.P., rep.by its District Collector, Ranga Reddy District, Hyderabad, and others.

... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.26519 OF 2006

ORDER:

The petitioner is a company. It has allegedly purchased the property admeasuring Acs.10.13 guntas in survey No.168 situated at Daira village of Keesara Mandal in Ranga Reddy District from Smt.Lingamani under registered sale deed bearing document No.859/1997, dated 23.03.1997 and registered sale deed No.883/1997, dated 28.03.1997. It is the case of the petitioner that the property was originally owned by M.A.Razak and Nukalagudem Nagaiah, who jointly executed sale deed in favour of Lingamani on 12.03.1980. However, respondents 5 to 23 herein filed a suit being O.S.No.708 of 1996 on the file of the Principal Subordinate Judge, Ranga Reddy District against Lingamani, for declaration of title and rectification of entries in record of rights (RoR) and the same was decreed *e x parte* on 18.10.2003. Thereafter, respondents 5 to 23 filed an application before the third respondent (Revenue Divisional Officer (RDO)) for grant of Occupancy Rights Certificate (ORC) presumably under A.P.(Talangana Area) Abolition of Inams Act, 1955 (Inams Abolition Act, for brevity). The RDO granted ORC vide proceedings No.J/3606/1998, dated 30.12.2003. The contesting respondents approached the fourth respondent (Mandal Revenue Officer (MRO)) for implementing ORC and issue of pattadar pass books and title deeds (PPB/TDs) duly apportioning their respective

shares. The MRO conducted enquiry and also on considering the objections raised by the petitioner issued proceedings No.B/5490/2004, dated 23.11.2006 ordering registration of respondents 5 to 23 as pattadars and possessors in RoR and issue of PPB in their favour as per the shares allotted to four branches of their family. In the meanwhile, the petitioner herein filed suit being O.S.No.312 of 2005 on the file of the District Judge, Ranga Reddy District, for declaration of title in respect of the same land. Nonetheless, aggrieved by the orders of the MRO, present writ petition is filed[1].

It is the case of the petitioner that respondents obtained *ex parte* decree, dated 18.10.2003 in O.S.No.708 of 1996 against Smt.Lingamani, without impleading the petitioner herein. Subsequently, on an application moved by the defendant therein, *ex parte* decree was set aside restoring the suit. Respondents 5 to 23, subsequently, did not however press the suit, and therefore, the suit was dismissed as not pressed. Notwithstanding this, respondents played fraud and obtained ORC and favourable orders from the MRO. Having come to know about this, the petitioner also filed O.S.No.312 of 2005 for declaration of title, which is pending. Therefore, any orders of the revenue authorities are not binding on the petitioner. It is also contended that though the facts were brought to the notice of the Joint Collector, the second respondent herein, the revision was dismissed by non-speaking order resulting in passing of the impugned order by the MRO. These submissions are reiterated by the learned counsel for the petitioner. **Per contra**, learned Assistant Government Pleader opposed the writ petition. He contends that respondents 5 to 23 obtained ORC from the RDO. Against such ORC, petitioner filed an appeal under Section 24 of the Inams Abolition Act, which was dismissed by the Joint Collector on 03.12.2005 and it is only thereafter the MRO issued the proceedings impugned in the writ petition. Relying on Section 8(2) of the A.P.Rights in Land and Pattadar Pass Books Act, 1971 (the RoR Act, for brevity), learned Assistant Government Pleader contends that if any person is aggrieved by RoR, by reason of alleged title, such person has to claim remedy in civil Court and as the petitioner has already filed O.S.No.312 of 2005, this writ petition is wholly misconceived. He even points out that against the order of the MRO, the petitioner has a remedy under Section 5(5) of the RoR Act.

This writ petition is wholly misconceived for reasons more than one. There is no dispute that respondents 5 to 23 obtained ORC from RDO and then filed application before the MRO for implementation of ORC as well as grant of PPB. There is also no dispute that the appeal filed by the petitioner under Section 24 was ultimately dismissed by the Joint Collector and the petitioner did not challenge the same but chose to file a suit being O.S.No.312 of 2005. Be it noted that petitioner filed the

said suit in October 2005, whereas the Joint Collector dismissed the appeal under Section 24 of the Inams Abolition Act on 03.12.2005 as seen from the impugned order. All this would lead to conclusion that the petitioner cannot be said to have without remedy. As rightly pointed by the learned Assistant Government Pleader, Section 8(2) of the RoR Act permits a person aggrieved by the RoR to approach a civil Court. Therefore, if ultimately the petitioner succeeds before the civil Court where he can raise all issues, it is only the civil Court decree, which would govern the RoR and PPB. The petitioner is given liberty to raise all the grounds before the civil Court. Indeed, a perusal of the plaint in O.S.No.312 of 2005 annexed to the writ petition would show that the contesting respondents have also alleged the petitioner of fraud and suppression of facts.

The writ petition is devoid of any merit and is accordingly dismissed. No costs.

(V.V.S.RAO,J)

22.12.2006.
pln

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[1] The affidavit accompanying the writ petition is not cohesive, comprehensive and logical. After perusing the affidavit and the impugned order, the above brief facts are culled out.